

# 2000 Annual Report

*David Maldenberg, Director*

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To promote the ethical conduct of state officers and employees in the executive and administrative branch of state government.

## [Responsibilities and Authority](#)

The Commission achieves its mission through: • administering a program of education and training • proposing legislation to the General Assembly • adopting rules relating to conduct and ethics • issuing advisory opinions • enforcing statutes and rules, and • evaluating and improving its operations and services.

By administering the [Code of Ethics for the Conduct of State Business](#), the Commission itself receives complaints, initiates investigations, holds public hearings, decides if ethics violations have occurred, and recommends or imposes appropriate sanctions.

The current enabling statute is found at [IC 4-2-6](#), as amended in 2001. Most of the substantive rules are found at [40 IAC 2](#), effective November 21, 1991.

# *Members of the Commission*

Members are appointed by the Governor on a non-partisan basis for four-year staggered terms. Members may not be elected officials, state employees or lobbyists.

## *Sherie L. Hampshire, Chairperson*



Sherie Hampshire, Chairperson of the State Ethics Commission since her appointment by Governor Frank O'Bannon on December 22, 1997, has been a member of the Commission since 1992. Ms. Hampshire's current term with the Commission expires September 1, 2004.

Ms. Hampshire, an attorney in Fort Wayne, is the president of Hampshire and Associates, PC. Prior to ownership of the law firm, Ms. Hampshire served as an associate from 1982-1984 and was a partner from 1984 to 1986.

Ms. Hampshire received her undergraduate degree in 1979 (magna cum laude) from Ball State University and earned her Doctor of Jurisprudence in 1982 from Valparaiso School of Law.

Ms. Hampshire, who lives in Fort Wayne, serves on the Executive Committee of the Allen County Family Law Committee and is a member of the American Bar Association, the Allen County Bar Association, the Indiana Bar Association, and a Fellow of the American Academy of Matrimonial Lawyers. Ms. Hampshire also is Co-Chair of the Allen County Bar Association Legal Ethics Committee.

## *Jack E. Newton*



Jack E. Newton was appointed to the State Ethics Commission on October 8, 1992, by Governor Evan Bayh. His term expired September 1, 2000.

Mr. Newton, now retired, attended Indiana University and was a former President of JENCO Oil and Gas, Inc. From 1964 to 1972, he served as the mayor of Jasper, Indiana. Mr. Newton is active in community affairs as a member of the Jasper Chamber of Commerce and the Jasper Action Team. He was the past Chairman of the Board of the Indiana Affiliate of the American Heart Association and is an elder with the First Presbyterian Church of Jasper.

Jack and his wife, Rose Marie, reside in Jasper. They have four children and seven grandchildren.

## *Sue Tuohy MacGill*



Sue Tuohy MacGill was appointed to the State Ethics Commission on February 16, 1995, by Governor Evan Bayh to a four-year term which expired September 1, 1999. Ms. MacGill was reappointed by Governor Frank O'Bannon. Her term expires September 1, 2003.

Ms. MacGill received her B.S. in Business from Indiana University, Bloomington, in 1978 and her Doctor of Jurisprudence from the Indiana University School of Law, Indianapolis, in 1983.

Prior to joining the Commission, Ms. MacGill worked as an Attorney with Wood Tuohy Gleason Mercer & Herrin.

Ms. MacGill has served on the Board of Directors for the Social Health Association and the School Commission for St. Luke's School. Ms. MacGill is married and has four daughters.

## *Alysa Christmas Rollock*



Alysa Christmas Rollock was appointed to the State Ethics Commission on January 18, 1996, by Governor Evan Bayh and was reappointed in 1999 by Governor Frank O'Bannon. Her term expires September 1, 2003.

Ms. Rollock received her A.B. from Princeton University and her J.D. from Yale University School of Law in 1984. Ms. Rollock serves as Vice President for Human Relations and as an Associate Professor of Management at Purdue University. In March 1998, Ms. Rollock was appointed to the Indiana Commission for Continuing Legal Education.

Ms. Rollock was an Associate Professor of Law at the Indiana University School of Law-Bloomington (1992-1998) and an Associate with the law firms of Ice Miller Donadio & Ryan (1988-92); Battle Fowler (1987-88); and Cahill, Gordon, and Reindell (1984-87). She serves on the Board of Directors of the Community Organization Legal Activities Project, Inc. Ms. Rollock is a member of the Indiana State Bar Association and the American Bar Association.

Ms. Rollock, her husband, David, and their three children live in West Lafayette, Indiana.

## *Richard Hamilton*



Reverend Richard Hamilton was appointed December 29, 1997, by Governor Frank O'Bannon to fill the unexpired term of resigning Commissioner, David Hadley. Reverend Hamilton is the retired pastor of North United Methodist Church in Indianapolis. His term expires September 1, 2001.

Reverend Hamilton is a graduate of DePauw University in Greencastle, Indiana; Drew Theological Seminary in New Jersey; and Union Theological Seminary in New York. He has studied at the University of Heidelberg in Germany and holds honorary degrees from DePauw University, the University of Indianapolis, and Hanover University.

Reverend Hamilton has focused his major works of study on ethics.

Reverend Hamilton and his wife, Anna Lee, live in Indianapolis, Indiana.

## **David H. Maidenberg, Director . . .**

is responsible for all agency administrative, legislative and legal activity, plus the supervision of staff.

## **Wendy Stone Messer, Attorney . . .**

advises the Director and the Commission on legal issues, and assists in the administration of the agency. The attorney also responds to questions on the state ethics code from state employees, officers and the general public.

## **David A. Clark, Investigator . . .**

investigates all complaints and cases initiated by the Commission on its own or upon request of the Governor. The Investigator also audits Financial Disclosure Statements.

## **Mary C. Hill, Information Director . . .**

provides information services and administers a program of training for all employees of the executive branch.

## **Joann Flynn, Business Administrator . . .**

handles all correspondence, word processing, filing, purchasing, personnel matters, and maintains the Index of Conflict of Interest Statements. She is also responsible for financial accounting and for preparing the annual budget.

**Appropriation**

\$254,273.00

**Actual Expenditures**

\$235,396.85

**Cost of Commission per:****capita** (based on state population of 5,544,159) = \$.04**state employee** (based on 38,000 state employees) = \$.06

Ethics training reaches employees at every level of state government. New employees receive ethics orientation by viewing a twenty-minute video, *What's Ethics Got To Do With It?* and receiving two ethics booklets: *Indiana Code of Ethics for the Conduct of State Business*, and *Indiana Ethics: A Guide to the Ethics Laws*.

Supervisors and managers may participate in either *Ethics for Supervisors* or *Ethics for Managers*. These classes establish guidelines for handling ethics situations in the work place.

Agency heads, state officers, and ethics officers may choose between attending *Ethics for Executives*, or receiving individual training from a member of the Commission staff.

The above classes are offered on a quarterly basis. In 2000, 70 employees received orientation, 54 attended *Ethics for Supervisors*, 27 participated in *Ethics for Managers*, and 15 attended *Ethics for Executives*.

In addition to the regularly scheduled classes, agencies and offices may request training sessions for their employees. In 2000, 223 employees from four agencies and one state office received training specific to their agencies.

As a part of Decatur High School's (Indianapolis) work/study program for seniors, the Information Director was invited to speak on ethics in the workplace. Thirty-six students participated. The Information Director and the Internal Affairs Investigator spoke on the role of the Ethics Commission to forty high school students involved in Teen Pact, a National organization which focuses on developing leadership skills.

## Training by State Offices & Agencies

In addition to the quarterly ethics classes offered by the State Ethics Commission, agencies and state offices are requested to provide orientation for new employees and training for supervisors (if applicable).

Agencies and offices file reports of their training activity with the Commission on a quarterly basis. These quarterly reports reflect the number of new employees receiving orientation and the number of new first-line supervisors receiving *Ethics for Supervisors* training from their agencies.

During 2000, there was 88% compliance from 61 agencies and 7 state offices in filing their reports. The total number of employees reported trained during 2000 was 8,553. Added to the 166 employees trained by the State Ethics Commission, the total reached 8,719.

## Post-Employment Training

As employees leave government service, they are given the post-employment guide, *Leaving State Government?*, by their Human Resources representative or designated person. The guide consists of laws that apply specifically to former state officers and employees of the executive and administrative branch of state government. At the end of the year, each agency and office is asked to report the number of employees who left state government and the number of those employees who received the guide. In 2000, 58 agencies and 7 offices filed post-employment reports: 3,197 employees left state government, and 2,766 employees received the guide.

### 2000 Ethics Training

Percentage of agencies and offices  
filing Quarterly Training Reports  
88%

Number of employees trained  
8,553

Number of employees hired in 2000  
2,148



The State Ethics Commission maintains various filings (see box below) for public inspection. All of these filings are available in the Commission's office during normal business hours (8:00 a.m. to 4:45 p.m.) on regular state working days.

The Commission also maintains files of minutes of its meetings, records of cases that go to public hearing (or where a settlement occurred after a finding of probable cause), and reports for cases in which an agreed settlement was reached.

In 2000, 384 Financial Disclosures and 4 Gift and Travel approvals were filed. The number of Conflict of Interest filings indexed was 881 (these were filings statewide as per IC 35-44-1-3). As always, the office responded to numerous phone calls, letters, and visits for guidance and information on ethics as well as meeting with people who dropped in for assistance.

## **Code of Ethics**

The *Code of Ethics for the Conduct of State Business* is the legal floor of minimum standards to which employees in the executive and administrative branch of state government must adhere. The code states what employees may and may not do.

## **Publications**

The *1999 Annual Report* was added to the list of publications available on the Commission's web site. Hard copies of these publications (statutes, rules, and one-page guides) are available to the public and state employees. The newsletter, *Ethics News*, is issued three times during the year and is available as a PFD file on the Internet.

## **A.D.A.**

In compliance with the Americans With Disabilities Act (ADA), the Commission's training videos are closed captioned and the ethics booklets: *Indiana Code of Ethics for the Conduct of State Business*, and *Indiana Ethics: A Guide to the Ethics Laws*, are available in braille.

## **On-Line**

Information about the Commission can be accessed at: [www.ethics.in.gov](http://www.ethics.in.gov).

## **Public Documents**

**Financial disclosure statements:** required of state officers, candidates for state offices, executive branch agency heads, and certain other state employees

**Notices of recusal:** due to conflicts or potential conflicts of interest

**Waivers:** of the post-employment restriction

**Approvals:** to accept certain gifts or travel-related reimbursements

**Index of filings:** under the criminal conflict of interest law ( original disclosures filed with the State Board of Accounts)

**Reports of contributions and expenses to:** Governor's Public Building Foundation and Governor's Residence Commission

## Procedure

Ethics laws (IC 4-2-6) authorize the Commission to initiate and conduct an investigation into an alleged violation upon its own initiative or upon the written request of the Governor. In addition, the Commission may receive sworn complaints of alleged ethics violations. If a complaint is not dismissed for failing to allege facts sufficient to constitute a code or statutory violation or for being frivolous or inconsequential, the Commission investigates the complaint.

Alternatively, a complaint may be forwarded to a more appropriate authority or person for investigation. If a complaint is not dismissed or forwarded, the respondent(s) must be notified promptly that a complaint has been filed.

After the Commission conducts an investigation, it determines if there is probable cause to support an alleged violation. If the Commission does not find probable cause, the complaint is dismissed and the person who filed the complaint and the respondent are notified. In such a situation, all information received by the Commission in its investigation remains confidential unless the respondent waives the right to confidentiality and elects to have the records divulged.

If the Commission determines there is probable cause of a violation, the respondent must be notified and a public hearing must be set within sixty days of the determination. The respondent may instead enter into a settlement concerning the facts and proposed sanction, if the Commission agrees.

After the public hearing or acceptance of an agreed settlement, the Commission must issue a report stating its findings of fact and recommending or imposing sanctions. The Commission may recommend the appointing authority reprimand, suspend, or dismiss the employee or the Commission may directly impose sanctions of a civil penalty, cancel a contract, or bar a person from contracting with an agency of state government.

The report of the Commission must be sent to the employee, the appointing authority of the employee, and the Governor. The Commission may also forward the report to the prosecuting attorney of a county in which the violation occurred, the State Board of Accounts, the state personnel director, the attorney general, a state officer, or any other appropriate person. The report is available for public inspection and copying.

## Case Summaries

During 2000, the State Ethics Commission initiated 12 new cases and resolved six cases of those pending from 1999. All but two of the new cases were initiated by the Commission based on information it had received. The remaining two cases were initiated by formal complaints.

The cases resolved in 2000 include:

- A public assistance caseworker was cited for conflict of interest when she served as a real estate agent for clients that she also represented in her state position. In addition, the caseworker was found to have used state resources and state time for purposes related to her outside real estate activities. In a settlement with the Commission, the caseworker agreed to a reprimand and a civil penalty of \$2500.
- A former inspector for the State Fire Marshal's Office misused state time and resources when he used a state vehicle for an outside training business – and when he conducted part of that training while on state time. A settlement was reached in which the former inspector agreed to a civil penalty of \$1500.

- A former attorney with the Indiana Professional Licensing Agency misused state time and resources by using a state computer, Internet privileges, telephone, and printer for purposes other than official state business, including for outside legal work.
- An attorney in Family & Social Services Administration was also cited for misusing state time and resources. He was found to have worked on letters, pleadings and briefs related to his outside legal employment, as well as working on personal matters and downloading computer games. The attorney reached a settlement with the Commission and was suspended without pay for three weeks.
- In a case that went to public hearing, a former vocational rehabilitation counselor was found to have violated the ethics code by seeking and receiving sexual favors from a client. The Commission levied a \$10,000 fine and recommended termination. The former counselor is seeking judicial review of the decision.
- Close to two-dozen employees were disciplined and fined for forwarding jokes, cartoons and various file attachments using state computers and networks. Fines ranged from \$25 to \$100.
- The Commission found that a state trooper improperly accepted an honorarium from a consortium. In a settlement with the Commission, the trooper, while not admitting that the honorarium was illegal, did not contest the finding. He was fined \$250 in addition to having a second pending honorarium payment waived.

In five other investigations initiated in 2000, the Commission found no probable cause and dismissed the cases. Several others remained pending as of the beginning of 2001.

## **Who files?**

One of the Commission's principal responsibilities is to administer the financial disclosure provisions of the statute.

Persons required to file a financial disclosure report are: state officers, candidates for state office, chief executives of agencies in the executive branch of state government, the director of each division of the Department of Administration and purchasing agents within the Procurement Division of the Department of Administration.

The report is to be filed no later than February 1 for the previous calendar year or within sixty days of being employed or within thirty days of leaving employment.

The person filing must affirm to the statement under the penalty of perjury and may file an amended statement upon discovery of additional required information.

## **Contents**

The following information is required in the report:

- (1) The name and address of any person known:
  - (A) to have a business relationship with an agency, and
  - (B) from whom the state officer, candidate, or employee, or that individual's spouse or unemancipated children received a gift or gifts having a total fair market value in excess of one hundred dollars (\$100).
- (2) The location of all real property in which the state officer, candidate, or the employee, or that individual's spouse or unemancipated children has an equitable or legal interest either amounting to five thousand dollars (\$5,000) or more or comprising ten percent (10%) of the state officer's, candidate's, or the employee's net worth, or the net worth of that individual's spouse or unemancipated children.
- (3) The names and the nature of the business of the employers of the state officer, candidate, or the employee and that individual's spouse. The state need not be listed as an employer.
- (4) The name of any sole proprietorship owned or professional practice operated by the state officer, candidate, or employee or that individual's spouse and the nature of the business.
- (5) The name of any partnership of which the state officer, candidate or the employee, or that individual's spouse is a member and the nature of the partnership's business.
- (6) The name of any corporation (other than a church) in which the state officer, candidate, or the employee or that individual's spouse is an officer or director and the nature of the corporation's business.
- (7) The name of any corporation in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars (\$10,000).
- (8) The name and address of the most recent former employer.

## Audits

The Investigator performs a desk audit on all reports making sure all forms are complete and filled out according to the given instructions. The Investigator also looks for information suggesting a conflict of interest or other impropriety.

In 1999, there were no forms revealing information which led to a Commission-initiated investigation. All forms are maintained for public inspection.

The State Ethics Commission is directed by statute to issue Advisory Opinions interpreting IC 4-2-6, 40 IAC 2, and any other statute or rule governing official conduct. Advisory Opinions are issued upon request or by the Commission's own motion. If an Advisory Opinion is requested, an "inquiry" (written request) must be filed with the Commission at least seven days prior to a Commission meeting.

The person submitting the inquiry must appear before the Commission at a monthly or special meeting and attest to the facts of their situation under affirmation of the penalty of perjury.

An Advisory Opinion is binding on the Commission in any subsequent allegations concerning the person who requested the opinion and who acted on it in good faith. The opinion is also a public record.

Employees are encouraged to ask their agency head, ethics officer, or supervisor for guidance about any situation which they feel might involve an ethics violation. In addition, employees may call the Commission's Attorney and Director for informal guidance.

Therefore, employees of state government must conduct themselves in such a manner that the general public will have confidence that their performance is always for the public good. The following statements are minimum standards of conduct for state employees to follow.

- Employees are to be impartial in the discharge of their duties.
- Decisions and policies must not be made outside the proper channels of state government.
- Public office is not to be used for private gain.
- Employees may not make unapproved use of state property, personnel, or facilities.
- Employees may not use state time for other than state duties.
- Employees may not benefit financially from information of a confidential nature gained through state employment.
- Employees may not solicit or accept outside payments for the performance of state duties.
- An employee may not accept a gift, favor, service, entertainment, food or drink which could influence the employee's action.
- Payment for an appearance, speech, or article may not be accepted if the appearance, speech, or article could be considered part of the employee's official duties.
- An employee may not accept payment of expenses for travel, conventions, conferences, or similar activities which could influence the employee's action.
- Employees may not have outside employment incompatible with their state employment or against their agency's rules.
- Supervisors may not solicit political contributions from employees they supervise.
- An employee may not solicit political contributions from persons or entities that have a business relationship with the employee's agency.
- Employees may not participate in decisions or votes of any kind in which the employees, their spouses, or dependent children have a financial interest.
- After leaving state government, former employees may not financially benefit from a contract they negotiated, prepared, or approved for one year.
- Former employees may not assist a person regarding a particular matter in which they participated as part of their state duties for one year after they had that responsibility.